

# EXHIBIT 16

To Declaration of S. Matz

## COMMERCE PRODUCT ADDENDUM

This Commerce Product Addendum (“**Addendum**”) is entered into by and between you (“**You**,” “**Your**” or “**Provider**”) and Google LLC and its affiliates (“**Google**”), and amends the Agreement (as defined below) as of the date you click the acceptance button below. If you are accepting on behalf of your employer or another entity, you represent and warrant that you have full legal authority to bind your employer or such entity to the terms of this Addendum. If you do not have the legal authority to bind, please do not click the acceptance button below.

In consideration of the mutual promises contained herein and other good and valuable consideration, the parties hereby agree as follows:

### **Definitions.**

“**Agreement**” means the agreement entered into by and between the parties that governs the licensing and monetization of Provider Content on the Google Services.

“**Brand Features**” means the names, logos, trademarks, designs and trade names of a party.

“**Commerce Content**” means any item or service (including, but not limited, to audiovisual or graphic content) and associated data, metadata, materials and information that Provider elects to make available to Google and its Affiliates, or directly to end users, as a specified part of a Commerce Product during a specified period in exchange for a fee.

“**Commerce Products**” means the different products or features through which Commerce Content is made available to end users via the Google Services (and may include, by way of example only, rentals, purchases and paid channels, accessible via streaming or download, sponsorships and gaming interactivity), as described in the then-current version of the Specifications. Commerce Products do not include site-wide subscription features or features not included in the Specifications (such as YouTube Red) that users may access in exchange for a fee.

“**Commerce Revenues**” means revenues recognized by Google from fees charged by Google to end users in connection with the Commerce Products.

“**Google Services**” if not otherwise defined in the Agreement means Google websites, applications, products and services, including but not limited to the YouTube Website, applications, API services, embeds, and any of the foregoing that are made available for syndication.

“**Marketing Assets**” means any marketing materials Provider elects in its sole discretion to make available to Google for marketing, promotional and advertising purposes, as further described in Section 2.3. Such materials may include video clips, images, screenshots, sizzle reels, promos, trailers and other such types of marketing materials.

“**Provider Content**” if not otherwise defined in the Agreement means the audio and audiovisual content received by or made available to Google from or by Provider, and all related metadata and materials made available to Google, via specified delivery.

“**Specifications**” means the specifications, policies and guidelines that apply to the Commerce Products, as it relates to Provider’s use of the Commerce Products, which Google will provide and may update from time to time.

“**Suggested Retail Price**” is the suggested retail price for applicable Commerce Content, as specified by Provider via the metadata (or such other means as specified by Google). Google will use the Suggested Retail Price to determine the equivalent local price for applicable Commerce Content and such local price will be the deemed Suggested Retail Price for

that territory. For the avoidance of doubt, Google retains sole discretion to establish the actual retail price for the Commerce Products.

### **License.**

**Content License.** If you provide any custom Brand Features or other Commerce Content for use in conjunction with the Commerce Product(s), you agree to the following: without limiting the scope of licenses granted in the Agreement, Provider's license grant to Google in and to the Provider Content is amended to also explicitly include the right and license (but not the obligation) for Google to host, cache, route, transmit, communicate and make available to the public, store, copy, modify (as described herein), distribute, perform, display, reformat, excerpt, analyze, create algorithms based on and otherwise use Commerce Content as necessary: (a) to make such content available via the Commerce Products; and (b) to the extent deemed necessary by Google in its sole discretion, for Google or a third party on Google's behalf to apply encryption.

**Brand Features.** Regardless of any provision to the contrary in the Agreement, Provider grants to Google a non-exclusive, worldwide, royalty-free license to use any Brand Features provided by Provider (including all Brand Features pertaining to the Commerce Content) in connection with its use of the Commerce Products as authorized under this Addendum, in order to market and promote the Commerce Products and/or availability of Commerce Content, and for use in presentations, marketing materials, financial reports, press releases and customer lists (which includes customer lists posted on Google's web sites and screenshots of Commerce Content contained in the Google Services).

**Marketing Assets.** Provider grants to Google and/or a third party on Google's behalf a royalty-free, non-exclusive, worldwide, perpetual license to copy, distribute, create derivative works based on (e.g., combine portions of the Marketing Assets in combination with other content), perform, display, and otherwise use the Marketing Assets in all media, whether now known or hereafter devised, solely in connection with the marketing, promotion and advertising of the Google products and services together with the Commerce Products. If Provider chooses not to provide Marketing Assets to Google, Google (and/or an authorized third party) may create marketing materials using screen shots, stills, clips or images from the Commerce Content, in order for Google (and/or a third party on its behalf) to market or promote Google Services together with the Commerce Content.

**Clearances.** Without limiting any of Provider's obligations under the Agreement, the licenses described in this Section 2 includes all necessary licenses for all performances by audiovisual talent or artists and all music rights (including public performance licenses) in the compositions and sound recordings of any music incorporated in, synchronized with or is part of, the Commerce Content or Marketing Assets.

### **Use of the Commerce Products.**

Subject to the eligibility requirements described below, Provider may elect which Commerce Product(s), if any, through which it wishes to make the Commerce Content available. Provider may choose to enable one or more of the Commerce Products at any time.

Provider acknowledges that each Commerce Product may have different eligibility requirements associated with it and as a result Provider may not be eligible to use any or all of the Commerce Products until it meets such requirements. The eligibility requirements for each Commerce Product will be set out in the Specifications.

For the avoidance of doubt, Commerce Content will be subject to all the terms of the Agreement, unless expressly amended by this Addendum. Notwithstanding the foregoing, Commerce Content does not count towards any content-related deliverables or commitments which may be set forth in the Agreement (or any payment terms associated therewith) unless expressly agreed otherwise herein.

As between the parties, Provider will be solely responsible for any and all programming and editorial decisions regarding the Commerce Content.

**Commerce Content Delivery and Distribution.**

**Specifications.** Provider will, at all times, comply with the requirements of the Specifications.

**Playback/Usage.** Unless otherwise approved by Google, Provider may not enable any feature that restricts playback or usage of the Commerce Content.

**Restricted Content.** Unless pre-approved by Google, Provider will not make any content available via any Commerce Product that is subject to a content commitment under any other agreement between the parties, including the Agreement.

**Territories.** If Provider is permitted to specify territorial limitations under the Agreement, Provider acknowledges that with respect to Commerce Content, in addition to or instead of IP address detection, Google may use other geofiltering technologies to verify that an end user's location corresponds to the Provider-specified Territory (or territory).

**Closed Captioning.** If closed captioning is required in the Specifications or if Provider makes closed captioning available for the same content on any other platform, Provider will provide closed captions for the Commerce Content. To the extent that Provider fails to provide any required captions, Google has the right to: a) cease making available such Commerce Content; or b) create or authorize the creation of captions for use with such Commerce Content.

**Content Availability.** Notwithstanding anything set forth to the contrary in the Agreement, Provider will not remove any item of Commerce Content prior to the end of the applicable viewing or usage period as stated in the Specifications (although, for clarity, Provider may cease to offer any item of Commerce Content for new purchases or rentals, at any time in its discretion). If Provider takes down Commerce Content prior to the end of an applicable viewing or usage period, Google may take measures to ensure such Commerce Content is still accessible by the end user during their applicable usage or viewing period. You understand and agree that the licenses granted with respect to the Commerce Content will survive: (a) any termination or expiration of the Agreement or this Addendum, or (b) any removal of the Commerce Content by you, until the applicable viewing period for all end users expires.

**Financial Terms.****Commerce Revenue Payments.**

Except as otherwise agreed to in this Addendum and subject to Sections 5.1(c), 5.4 and 5.5 below, Google will pay to Provider an amount equal to 70% multiplied by the greater of: (A) Commerce Revenues, or (B) the Suggested Retail Price for the relevant Commerce Content (if applicable). Google will retain the remainder.

In connection with certain promotions, the parties may mutually agree in writing (including via e-mail) to modify the payments due to Provider hereunder on a short-term, non-permanent basis so long as such writing confirms the: (i) duration of such promotion; (ii) nature of such promotion; (iii) Commerce Content associated with such promotion; and (iv) the modified payments due to Provider.

For the avoidance of doubt, nothing herein will prevent Google from offering promotions absent consultation with Provider, and in such cases Google will pay Provider in accordance with the terms set forth in Section 5.1(a).

The revenue share set out at section 5.1(a) above will not apply to Commerce Content that is offered as part of a package of channels. In the event that Google decides (in its discretion) to offer the Commerce Content as part of a package of channels, parties will mutually agree (including via e-mail) on the applicable revenue share percentage.

**Payment.** Except as otherwise provided herein, the payment provisions in the Agreement will apply equally to Commerce Content.

**Reporting.** Within thirty (30) days of the end of each month, Google will furnish Provider with usage reports in the form generally made available to providers at that time.

**Taxes.** All payments made in connection with this Addendum are exclusive of taxes imposed by governmental entities of whatever kind and imposed with respect to the transactions for services provided under this Addendum. If Google is required to deduct or withhold taxes from any payments made to Provider and submits such taxes to the local taxing jurisdiction, then Google will withhold and submit such taxes and will pay to Provider the remaining net amount after the taxes have been withheld. If Google is required to charge taxes to any user for any purchase of Commerce Content, then Google reserves the right to calculate the amount of any such tax, submit such taxes to the local taxing jurisdiction and deduct the amount of such tax payments from the Commerce Revenues or Suggested Retail Price (as applicable) prior to calculating Provider's share of revenues.

**Non-Qualifying Payments.** For avoidance of doubt, Google will not be liable for any payment based on: (a) any purchase that is subject to a refund (in Google's discretion), credit card chargeback, or declined payment; (b) promotional offers made pursuant to Section 5.1(b)(i) hereof; (c) any mobile or device related transaction fees applicable to purchases on such platforms; (d) free trials offered by Google to end users who are first time subscribers to a subscription channel or subscription channel package; or (e) any breach of this Addendum by Provider. Google may withhold payment (from Ad Revenues or Commerce Revenues) or charge-back Provider for any non-qualifying payments described in the sentence above pending Google's reasonable investigation. Provider will cooperate with Google in any investigation. Provider will not, and will not authorize or encourage any third party to, directly or indirectly execute purchases of Commerce Content or otherwise obtain access to Commerce Content through any automated, deceptive, fraudulent or other invalid means, including but not limited to through the fraudulent use of software or credit cards.

#### **Representations, Warranties and Indemnities.**

In addition to Provider's representations and warranties under the Agreement, Provider represents and warrants that:

any and all titles, descriptions, promotional and marketing communications, and other data, information, Marketing Assets or materials made available by Provider in connection with any Commerce Content will be accurate and free of any deceptive, false, misleading or fraudulent statements;

Google's use of the Commerce Content, Marketing Assets and/or Provider's Brand Features will not violate any applicable law, rule, regulation or right of any kind whatsoever or give rise to any actionable claim or liability;

it will comply with all applicable laws and regulations relating to the delivery and distribution of the Commerce Content, including country-specific content ratings and censorship rules; and

for any Commerce Content made available by Provider as part of a Commerce Product (where applicable), Provider will provide such Commerce Content in accordance with all descriptions and commitments given in relation thereto.

For the avoidance of doubt, Provider's indemnity obligations under the Agreement shall apply equally to this Addendum but shall be extended to include any breach of Provider's representations and warranties in Section 6.1 above.

#### **Limitation on Liability.**

IN NO EVENT WILL EITHER PARTY'S TOTAL AGGREGATE LIABILITY FOR ANY AND ALL CAUSES OF ACTION ARISING OUT OF OR RELATED TO THIS ADDENDUM EXCEED THE NET AMOUNT SUCH PARTY HAS ACTUALLY RECEIVED AND RETAINED (AFTER ACCOUNTING FOR ALL DEDUCTIONS, AND OTHER OFFSETS PROVIDED FOR UNDER THIS ADDENDUM) FROM COMMERCE REVENUES DURING THE SIX (6) MONTHS IMMEDIATELY PRECEDING THE DATE ON WHICH SUCH CLAIM ARISES. For the avoidance of doubt, the subsection of the Agreement which sets out the parties' cap on liability shall not apply to Commerce Content.

**Term and Termination.**

**Term.** This Addendum will commence on the Addendum Effective Date and will continue for a period of twelve (12) months, following which this Addendum will automatically renew for additional one (1) month terms unless terminated in accordance with section 8.2 below (the "Term").

**Termination.**

Either party may terminate this Addendum: (i) immediately upon written notice to the other party if (x) the other party files a petition for bankruptcy, becomes insolvent, or makes an assignment for the benefit of its creditors, or a receiver is appointed for the other party or its business, or (y) the other party breaches its obligations in respect of confidentiality, as set out in the Agreement; or (ii) for convenience with thirty (30) days' prior written notice at anytime during the Term hereof.

Google may terminate or suspend this Addendum or Provider's access to any Commerce Product immediately upon written notice to Provider if (i) Provider breaches its representations and warranties under the Agreement or this Addendum; or (ii) Provider fails to comply with the Specifications.

This Addendum shall automatically terminate in the event of termination or expiry of the Agreement. However, in the event of termination of this Addendum, the Agreement will remain in effect until otherwise terminated.

**Survival.** Sections 2 (to the extent described in Section 4.6), 5, 6, 7 and 9 will survive any expiration or termination of this Addendum.

**Miscellaneous.**

**Approvals.** All approvals required in this Addendum must be given in writing (which may include e-mails).

**Counterparts.** The parties may execute this Addendum in counterparts, including facsimile, PDF, and other electronic copies, which taken together will constitute one instrument. This Addendum may be executed in multiple counterparts, each of which will be deemed an original and all of which will constitute one and the same instrument. This Addendum will be binding on the parties hereto and their respective personal and legal representatives, successors, and permitted assigns.

**Conflicting Terms.** If there is a conflict between any term of this Addendum and a term of the Agreement, the term of this Addendum will govern. Capitalized terms used but not defined in this Addendum will have the meanings given to such terms in the Agreement. Except as specifically, and to the extent, modified by this Addendum, all the terms and conditions of the Agreement will continue to remain unchanged and in full force and effect and will apply, as applicable, to the parties under this Addendum.

**Entire Agreement.** This Addendum together with the Agreement sets out all terms agreed between the parties and supersedes all previous or contemporaneous agreements between the parties relating to Commerce Content that is made available on a subscription basis.

**Governing law and Translations.** The laws of California, U.S.A., excluding California's conflict of laws rules, will apply to any disputes arising out of or relating to this Addendum. All claims arising out of or relating to this Addendum will be litigated exclusively in the federal or state courts of Santa Clara County, California, U.S.A., and you and Google consent to personal jurisdiction in those courts.

## YouTube Partner Program Terms

Together with the YouTube Terms of Service and the YouTube Partner Program Policies (each of which may be updated from time to time and are incorporated herein by reference), the following YouTube Partner Program Terms apply to your participation in the YouTube Partner Program (the "Terms"). Please read the Terms carefully. If you do not understand or accept any part of these Terms, you should not upload Content for monetization on YouTube.

**1. Monetization Revenues.** YouTube will pay you as follows:

- a. **Advertising Revenues.** YouTube will pay you 55% of net revenues recognized by YouTube from ads displayed or streamed by YouTube or an authorized third party on your Content watch pages or in or on the YouTube video player in conjunction with the streaming of your Content. YouTube is not obligated to display any advertisements alongside your videos and may determine the type and format of ads available on the YouTube Service. For clarity, YouTube reserves the right to retain all other revenues derived from the YouTube service, including any revenues relating to ads on search result pages.
- b. **Subscription Revenues.** YouTube will pay you 55% of the total net revenues recognized by YouTube from subscription fees that are attributable to the monthly views or watchtime of your Content as a percentage of the monthly views or watchtime of all or a subset of participating content in the relevant subscription offering (as determined by YouTube). If your Content is included in and viewed by a user in multiple subscription offerings, YouTube will pay you based on the subscription offering with the highest amount of net revenues recognized by YouTube, as calculated by YouTube.

**2. Payment Account Requirement.** In order to earn or receive payment of any revenues hereunder, you must at all times have an active AdSense account associated with your YouTube user account(s) (or such other payment method as required by YouTube). YouTube does not owe you for any revenues that may be associated with your Content during any period in which you do not have a valid method of payment.

**3. Payment Terms, Limitations and Taxes.** YouTube will pay you for any revenues due within approximately sixty (60) days after the end of any calendar month, so long as your earned balance is at least US \$100 (or its equivalent in local currency) at the time payment is due. You are not entitled to earn or receive any revenues in connection with your Content in any of the following circumstances: (a) if one or more third parties claim rights to certain elements of your Content except in cases where YouTube's policies or systems support sharing a portion of the revenues with you, as determined by YouTube; (b) if monetization is disabled on your Content by either you or YouTube; or (c) your participation in the YouTube Partner Program is suspended or terminated pursuant to Section 4 below. YouTube will use reasonable efforts to notify you if any of these circumstances should occur.

**4. Termination.** Either party may terminate these Terms for convenience with 30 days prior written notice to the other (including via electronic means). YouTube may either suspend or terminate your participation in the YouTube Partner Program immediately upon written notice (including via electronic means) if YouTube reasonably determines or suspects that you have violated these Terms. For clarity, in the event of any termination of these Terms the YouTube Terms of Service will survive and continue to apply to your use of the YouTube service.

**5. Governing Law.** The governing law and dispute resolution provisions of the YouTube Terms of Service will also apply to these Terms.

**6. Miscellaneous.** Capitalized terms used but not defined in these Terms will have the meanings given to such terms in the YouTube Terms of Service. These Terms replace all previous or current agreements between you and YouTube relating to the YouTube Partner Program, including any prior monetization agreements that are in effect between you and YouTube as of the effective date. Except as modified by these Terms, the YouTube Terms of Service remain in full force and effect. YouTube's right to modify or revise the Terms of Service (as described in the YouTube Terms of Service) will also apply to these Terms.